

Assembly Bill 893 relating to: major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission.

BILL SPONSORS	Introduced by Representative Jeskewitz, cosponsored by Senator Roessler. Referred to Joint Legislative Audit Committee.
BILL HISTORY	<p>Assembly Bill 893 was introduced and referred to the Joint Legislative Audit Committee on February 23, 2004. A public hearing and executive session was held on February 26, 2004. Assembly Amendment 1 adopted by Joint Legislative Audit Committee, 8-1 (Kaufert).</p> <p>The Committee recommended AB 893 for passage as amended on a vote of 9-0 on March 2, 2004.</p> <p>Assembly Amendment 1 was introduced and adopted on March 2, 2004. Assembly Amendment 1 to Assembly Amendment 1 was introduced on March 9, 2004. The State Assembly took action on AB 893 on March 10, 2004. On March 10, 2003, the Assembly substitute amendment 1 was adopted and passed on a voice vote in the State Assembly.</p> <p>Assembly Substitute Amendment: Please see attached memo from Legislative Council for a detailed explanation.</p> <p>(NO LINK YET – MEMO ATTACHED)</p> <p>Senate Bill 478 (Roessler companion bill) was introduced and referred to the Joint Legislative Audit Committee on February 20, 2004. A public hearing and executive session was held on February 26, 2004.</p> <p>The Committee recommended SB 478 for passage as amended on a vote of 9-0 on March 2, 2004.</p>
LRB ANALYSIS	<p><u>Current Law:</u></p> <p>Under current law, the Department of Transportation (DOT) administers a major highway projects program. With limited exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane, divided highway to freeway standards. Any major highway project, unlike other highway construction projects undertaken by DOT, must generally receive the approval of the Transportation Projects Commission (TPC) and the legislature generally referred to as "enumeration") before the project may be constructed. Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without the approval of the TPC and the legislature, the legislature may enumerate and approve the construction of major highway projects without approval by the TPC. The TPC may not</p>

recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years. Current law distinguishes, and provides separate funding for, southeast Wisconsin freeway rehabilitation projects, including reconstruction of the Marquette interchange in Milwaukee County. Current law specifically exempts any southeast Wisconsin freeway rehabilitation project from the definition of a major highway project, even if the southeast Wisconsin freeway rehabilitation project would meet the criteria described above for a major highway project. Southeast Wisconsin freeway rehabilitation projects are therefore not required to be reviewed or approved by the TPC.

Proposed Changes:

1. Prohibits TPC from recommending approval of any major highway project until TPC has been notified that a final environmental impact state or assessment has been approved by the Federal Highway Administration.
2. Prohibits the Legislature from enumerating any major highway project unless TPC has recommended approval of the project.
3. Requires DOT to submit a report every six months to TPC:
 - a. Summarize current status of each project submitted by DOT under consideration by TPC
 - b. Identifies all actual and estimated project costs, itemized by major cost categories. To the extent feasible, DOT must separately track and report costs of environmental assessments, compliance and mitigation.
 - c. Reports the required information on cumulative basis on inception of project and on an updated basis for period since last report.
4. DOT must make information available on DOT's website within following time periods:
 - a. Within five business days - any report prepared by DOT for the TPC on project status and costs
 - b. At least two business days - materials and documents for use prior to TPC meeting (not DOT recommendations on projects)
 - c. Time specified by TPC - any other information TPC directs be made available
5. Requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects.

Major Impact:

The companion bills were introduced by Joint Legislative Audit Committee Co-Chairs Roessler and Jeskewitz, respectively, in response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (Audit Report 03-13) and to testimony offered at the Joint Audit Committee's January 26, 2004 public hearing on the audit report.

FISCAL EFFECT

DOT says it would cost \$266,240 for quarterly reports on project level detail and program summary. The Assembly Substitute Amendment requires semi-annual reports so the fiscal would be lower than the original bill fiscal.

SUPPORT

The following people appeared in favor of this bill: (1) Suzanne Jeskewitz, Menomonee Falls - Representative, Wisconsin State Assembly; (2) Carol Roessler, Oshkosh - Senator, Wisconsin State Senate; (3) Pat Riley, Franklin; and (4) Ward Lyles, Madison - 1000 Friends of Wisconsin.

	The following person registered in favor of this bill: (1) John Ainsworth, Shawano – Representative, Wisconsin State Assembly.
OPPOSITION	No one registered or appeared in opposition to SB 478.
NEUTRAL	The following people appeared for information only: (1) Randy Romanski, Madison - Wisconsin Department of Transportation; and (2) Mark Wolfgram, Madison - Wisconsin Department of Transportation.
CONTACT	Karen Asbjorson, Committee Clerk, Joint Legislative Audit Committee Senator Carol Roessler, 266-5300
DATE	March 10, 2004



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 893	Assembly Substitute Amendment 1
<i>Memo published: March 11, 2004</i>	<i>Contact: Pam Shannon, Senior Staff Attorney (266-2680)</i>

This memorandum summarizes the provisions of *Assembly Substitute Amendment 1* to 2003 Assembly Bill 893, relating to major highway projects and the transportation projects commission.

Assembly Bill 893 is a companion to Senate Bill 478. The companion bills were introduced by Joint Legislative Audit Committee Co-Chairpersons Jeskewitz and Roessler, respectively, in response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (Audit Report 03-13) and to testimony offered at the Joint Audit Committee's January 26, 2004 public hearing on the audit report.

On March 10, 2004, Representative Jeskewitz introduced *Assembly Substitute Amendment 1*. The Assembly adopted the substitute amendment and passed the bill, both on voice votes.

BACKGROUND

Under *current law*, the Department of Transportation (DOT) administers the major highway projects program. A major highway project is defined, with limited exceptions, as a project having a total cost of more than \$5 million and involving either construction of a new highway of at least 2.5 miles, reconstruction or reconditioning of specified existing highways, or improvement of certain existing highways to freeway standards. Unlike other highway construction projects undertaken by DOT, major highway projects must generally receive the approval of the Transportation Projects Commission (TPC) and the Legislature (referred to as "enumeration") before the project may be constructed.

Currently, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. The DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without approval of the TPC and the Legislature, the Legislature may enumerate and approve the construction of major highway projects without approval of the TPC. The TPC may not recommend approval of a major highway project unless it determines that there is sufficient funding to begin construction of the project within six years.

ASSEMBLY SUBSTITUTE AMENDMENT 1

The substitute amendment contains the following provisions:

1. Timing of Transportation Projects Commission (TPC) Project Approval

The substitute amendment prohibits the TPC from recommending approval of any major highway project until the TPC has been notified that a final EIS or EA for the project has been approved by the Federal Highway Administration. This requirement first applies to major highway projects being considered by the TPC on the effective date of this provision.

2. Project Enumeration

The substitute amendment prohibits the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project, with or without modifications.

3. DOT Reports on Project Status and Costs

The substitute amendment requires DOT to submit a report every six months to the TPC that does all of the following:

- a. Summarizes the current status of each project submitted by DOT that is under consideration by the TPC, including any project approved by the TPC, and of each project enumerated.
- b. Identifies all actual and estimated project costs for those projects, itemized by major cost categories, as of the date of preparation of the report. To the extent feasible, DOT must separately track and report the costs of environmental assessments, compliance, and mitigation.
- c. Reports the required information both on a cumulative basis from the inception of the project and on an updated basis for the period since the last report.

The first report must be submitted by February 1, 2005. These reporting requirements first apply to major highway projects enumerated, approved, or being considered by the TPC on the effective date of this provision.

4. Information DOT Required to Make Available

The substitute amendment requires that, notwithstanding the Open Records Law, DOT must make the following information available to the public, including available at no charge on DOT's Internet site, within the following time periods:

- a. Any report prepared by DOT for the TPC relating to project status and costs must be available within five business days of the report's completion and transmittal to the TPC.
- b. Any materials or documents prepared by DOT, except the department's recommendations, for use at a TPC meeting must be available at least two business days prior to the meeting.
- c. Any other information that the TPC directs be made available by DOT must be made available within the time specified by the TPC.

These requirements first apply to reports, materials, and documents prepared by DOT on the effective date of this provision.

5. Creation of Change Management System

The substitute amendment requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects.

LEGISLATIVE HISTORY

Assembly Bill 893 was introduced and referred to the Joint Legislative Audit Committee. The committee held a public hearing and executive session on the bill on February 26, 2004. By unanimous consent, the committee introduced an amendment which became Assembly Amendment 1 and adopted the amendment on a vote of Ayes, 8; Noes, 1. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 9; Noes, 0. On March 10, 2004, Representative Jeskewitz introduced *Assembly Substitute Amendment 1*. The Assembly adopted the substitute amendment and passed the bill, both on voice votes. The bill was immediately messaged to the Senate.

PS:rv:wu



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 217 [2003 Assembly Bill 893]	Major Highway Program
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 217 makes several changes in laws relating to the Department of Transportation's (DOT's) major highway program. The changes were proposed by the Joint Legislative Audit Committee in response to findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (Audit Report 03-13) and to testimony offered at the Joint Audit Committee's public hearing on the audit report.

Act 217 contains the following provisions:

1. *Timing of Transportation Projects Commission (TPC) Approval*

The Act prohibits the TPC from recommending approval of any major highway project until the TPC has been notified that a final environmental impact statement or environmental assessment has been approved by the Federal Highway Administration. This requirement first applies to major highway projects being considered by the TPC on the effective date of the Act.

2. *Project Enumeration*

The Act prohibits the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project, with or without modifications.

3. *Creation of Change Management System*

The Act requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

4. DOT Reports on Project Status and Costs

The Act requires DOT to submit a report to the TPC every six months that does all of the following:

- a. Summarizes the current status of each project submitted by DOT that is under consideration by the TPC, including any project approved by the TPC, and of each project enumerated.
- b. Identifies all actual and estimated project costs for those projects, itemized by major cost categories, as of the date of preparation of the report. To the extent feasible, DOT must separately track and report the costs of environmental assessments, compliance, and mitigation.
- c. Reports the required information both on a cumulative basis from the inception of the project and on an updated basis for the period since the last report.

The first report must be submitted by February 1, 2005. These reporting requirements first apply to major highway projects enumerated, approved, or being considered by the TPC on the effective date of the Act.

5. Information DOT Must Make Available

The Act requires that, notwithstanding the Open Records Law, DOT must make the following information available to the public, including making it available at no charge on DOT's Internet site, within the following time periods:

- a. Any report prepared by DOT for the TPC relating to project status and costs must be available within five business days of the report's completion and transmittal to the TPC.
- b. Any materials or documents prepared by DOT, except the department's recommendations, for use at a TPC meeting must be available at least two business days prior to the meeting.
- c. Any other information that the TPC directs be made available by DOT must be made available within the time specified by the TPC.

These requirements first apply to reports, materials, and documents prepared by DOT on the effective date of the Act.

Effective Date: Act 217 takes effect on April 23, 2004.

Prepared by: Pam Shannon, Senior Staff Attorney

April 13, 2004

PS:ksm

Asbjornson, Karen

From: Shannon, Pam
Sent: Tuesday, February 10, 2004 2:51 PM
To: Asbjornson, Karen; Matthews, Pam; Chrisman, James; Bezruki, Don
Subject: DOT bills

Hi all,

I just talked to Aaron Gary at LRB. He'll do the /2 for the companion bills this afternoon and is confident they'll be ready tomorrow. I was able to put in the request for the fiscal estimates for the two bills so that when the /2's are ready, the request will go to DOA.

Pam Shannon
Senior Staff Attorney
Wisconsin Legislative Council Staff
(608) 266-2680
pam.shannon@legis.state.wi.us

1. I talked + emailed Randy yesterday - also mentioned want expedited fiscal when /2 Dept shd respond today (Pam)
2. drafters notes - did we address this?

both
pams 3. Frank Hoadley
Bill Rafferty
Dove Schmiedicke } CAFR

Asbjornson, Karen

From: Gary, Aaron
Sent: Wednesday, February 25, 2004 10:32 PM
To: Matthews, Pam
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James; Bezruki, Don
Subject: RE: Changes to AB 893 & SB 478

One additional change has been made to the amendment you received this evening (LRBa2365). The change provides that, under created s. 13.489 (2m), TPC "active review" is triggered upon the request for a hearing by *any* TPC member. Some juggling of the language was necessary to accomplish this, and hopefully the wording of the redraft will meet with your approval. Because of the shortness of time, to expedite matters, I have redrafted LRBa2365, with this change, under a new LRB number, thereby avoiding the delay of having to get the jacket back before a new draft can go out. The assembly amendment is LRBa2408. I have also taken the liberty of drafting the senate amendment with this change as well; it is now LRBa2409. (Karen, if you do not want this change included, please let me know first thing tomorrow and I will get you a version identical to LRBa2365.) I believe these two amendments should be to you by about the start of the 8:30 am hearing.

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Gary, Aaron
Sent: Wednesday, February 25, 2004 5:26 PM
To: Matthews, Pam
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James; Bezruki, Don
Subject: RE: Changes to AB 893 & SB 478

Pam,

I put the latest amendment draft into editing about half an hour ago. It will be e-mailed to you this evening (hopefully not too late). This is the assembly amendment. Please let me know as soon as possible (by voice mail) if you need any changes. I will wait to hear further before I send the senate draft out.

Also, I think I forgot to include Karen on the direct e-mail routing, so could you please provide a copy. thanks.
Aaron

Aaron R. Gary
Legislative Attorney
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aaron.gary@legis.state.wi.us

Asbjornson, Karen

From: Gary, Aaron
Sent: Wednesday, February 25, 2004 9:10 AM
To: Matthews, Pam
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James
Subject: RE: Changes to AB 893 & SB 478

Sorry, one more follow up: I think it is presumed that DOT may charge a fee for hard-copies of the reports and documents identified in item 1), unless the bill provides otherwise. (It is not so clear whether DOT could impose an access charge on the internet.) Do you want to specify that such information is to be available without fee on the internet, or by hardcopy, or both? Aaron

Aaron R. Gary
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Matthews, Pam
Sent: Tuesday, February 24, 2004 5:09 PM
To: Gary, Aaron
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James
Subject: Changes to AB 893 & SB 478

Aaron,

After a discussion with both Rep. Jeskewitz and Sen. Roessler I have been asked to request you to make the following changes in one simple amendment (for both bills):

- 1) **Making information available on the Internet.** *I believe you already received this from the Roessler office:*

Section 7. 13.489(5) of the statutes is created to read:

13.489(5). The Department of transportation shall maintain on the internet and allow for public access to the following information, within the prescribed timelines:

(a). Any report prepared by the department of transportation for the commission. Any report shall be available on the internet within 5 business days of completion of the report and transmittal to the Commission.

(b). Any materials or documents prepared by the department of transportation for use at a meeting of the commission. Any materials or documents prepared for a meeting of the commission must be available to the public on the internet at least 5 business days prior to the meeting.

(c). Any other information prescribed by the commission. This information must be available to the public on the internet within the time prescribed by the commission.

- 2) **Add language - similar to language in 4145/2 (and 4144/2) draft, page 3, starting on line 15 for approval of design changes. If the DOT wants to make any of the below design changes, they must first submit a report to the TPC identifying the desired design changes and get their approval before any of these changes can be implemented.**

- Upgrade from highway to expressway to freeway
- At-grade intersections to interchanges

- **Changing from 2-lanes to 4-lanes**

3) Change the frequency of reporting from quarterly to annually, or as needed. As needed would apply when a design change is requested.

I am still trying to get a consensus on whether this needs to be a simple amendment or a substitute amendment. Sorry for all this last minute stuff!

Pam

*Pamela B. Matthews
Research Assistant
Office of Representative Sue Jeskewitz
24th Assembly District*

*Office: 608-266-3796
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Asbjornson, Karen

From: Gary, Aaron
Sent: Wednesday, February 25, 2004 8:52 AM
To: Matthews, Pam
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James
Subject: RE: Changes to AB 893 & SB 478

I finished drafting this last night. Re item 2), I cobbled together what had been created s. 13.489 (2m) and (6) in the 4144/2 draft, with the requisite changes. As with the 4144/2 draft, item 2) is drafted to apply only to projects enumerated under s. 84.013 (3) or approved under s. 84.013 (6) - that is, only to projects sufficiently far along in the process that there is a set design and the project is basically "fixed". Also, re item 3), I have changed the required report period as indicated. As I understand it, the "as needed" aspect of item 3) relates only to the circumstances under item 2), so this part of item 3) is taken care of in the drafting of item 2).

Please let me know if any of the foregoing seems to be inconsistent with your intent (if the foregoing is too confusing, hopefully you'll have the amendment soon). As soon as I hear back on the initial applicability provision re "information available on the internet," I will finalize the draft and get it into editing. Obviously, the sooner I can do that the better chance that you'll have it yet today and the more time you'll have to review the actual draft and let me know if any changes are needed. Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Matthews, Pam
Sent: Tuesday, February 24, 2004 5:09 PM
To: Gary, Aaron
Cc: Asbjornson, Karen; Shannon, Pam; Chrisman, James
Subject: Changes to AB 893 & SB 478

Aaron,

After a discussion with both Rep. Jeskewitz and Sen. Roessler I have been asked to request you to make the following changes in one simple amendment (for both bills):

- 1) **Making information available on the Internet.** *I believe you already received this from the Roessler office:*

Section 7. 13.489(5) of the statutes is created to read:

13.489(5). The Department of transportation shall maintain on the internet and allow for public access to the following information, within the prescribed timelines:

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(b). Any materials or documents prepared by the department of transportation for use at a meeting of the commission. Any materials or documents prepared for a meeting of the commission must be available to the public on the internet at least 5 business days prior to the meeting.

(c). Any other information prescribed by the commission. This information must be available to the public on the internet within the time prescribed by the commission.

2) Add language - similar to language in 4145/2 (and 4144/2) draft, page 3, starting on line 15 for approval of design changes. If the DOT wants to make any of the below design changes, they must first submit a report to the TPC identifying the desired design changes and get their approval before any of these changes can be implemented.

- Upgrade from highway to expressway to freeway
- At-grade intersections to interchanges
- Changing from 2-lanes to 4-lanes

3) Change the frequency of reporting from quarterly to annually, or as needed. As needed would apply when a design change is requested.

I am still trying to get a consensus on whether this needs to be a simple amendment or a substitute amendment. Sorry for all this last minute stuff!

Pam

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24th Assembly District*

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Asbjornson, Karen

From: Bezruki, Don
Sent: Thursday, February 26, 2004 2:19 PM
To: Asbjornson, Karen; Matthews, Pam; Shannon, Pam; Chrisman, James

Attached is draft language which could be used to address the DOT concern that even minor resurfacing projects on the southeastern freeways would require reporting. Jan is fine with this approach if it works for the co-chairs.



DOT potential
language for SE ...

where
major record.
95-9790
DOT - big ticket items

DOT expressed concern that the current language in the bill requiring biannual reports on each major and each southeastern freeway rehabilitation project would result in reports which included even minor resurfacing projects in the southeast. This problem is caused by the definition of rehabilitation, which includes resurfacing, reconditioning and reconstruction, each of which is defined in s. 84.013 (1) (b) (c) and (d). DOT argued it made little sense to report on resurfacing, or "applying a deck" as Randy characterized it.

On solution would be to strike the word "rehabilitation" on page 4, line 16 of the bill (this is in newly created s. 13.489 (5) 1. and add "reconstruction or major reconditioning" instead. These would have the definitions contained in s. 84.013 (b) and (c).

To further ensure that only large value projects are captured for the reports, the language could be further modified to limit these to reconstruction and major reconditioning projects with a total value of more than \$5 million, which is the amount included in the definition of a "majors" projects.

over X #
\$5
work in
addition
to resurfacing

basic thing
pavement widening
& shoulder

State hwy rehab
resurf, record.

Root Co.
25 miles over 2 yrs.
recon. bridges
inter. bridges
short of major proj
done under state
hwy rehab.
capacity for more lanes
5 mile

dept reconst beltline up to 30
under state hwy rehab
not SE

adding cap.

Tom - don't deviate
no stat. role in SE freeway



Statement Regarding AB 893/SB 478 at Joint Legislative Audit Committee

Ward Lyles, Transportation Policy Director
608-259-1000

February 26, 2004

Thank you for the opportunity to share 1000 Friends of Wisconsin's position with you today on Assembly Bill 893 and Senate Bill 478. I am Ward Lyles, Transportation Policy Director for 1000 Friends of Wisconsin.

1000 Friends of Wisconsin supports Assembly Bill 893 and Senate Bill 478 relating to Major Highway Projects, southeast Wisconsin freeway rehabilitation projects and the Transportation Projects Commission. The recent Legislative Audit Bureau report on Major Highway Projects indicated that there is a lack of sufficient accountability or restraint with respect to spending on Major Highway Projects. Significant problems, including a total of \$381 million in cost overruns on seven recent projects, clearly point to the need for increased transparency in budget reporting by the Wisconsin Department of Transportation, as well as the implementation of a Fix-it-First policy in the upcoming budget process.

These bills represent a good first step towards increased accountability, but it is only a first. We are pleased to see that the Major Highway Projects approval process would include increased review by the Transportation Project Commission by requiring that an Environmental Impact Statement or Environmental Assessment is completed *before* the TPC approves a Major Highway Project. Similarly, we are glad to see that the legislature and governor would no longer be able to ignore the recommendations of the TPC by enumerating projects that the TPC refused to approve.

The increased reporting requirement also should also be an important improvement. 1000 Friends has repeatedly pointed out that the way in which transportation budgeting is reported is confusing and inaccessible and thereby reduces accountability to the public. While we feel that even more transparency is needed than is included in these bills, quarterly reports on the status of potential Major Highway Projects, enumerated Major Highway Projects and each southeast Wisconsin Freeway Rehabilitation project would increase the public's awareness of how their transportation dollars are being spent. The

In the following examples the statutory distinction between Major Highway Projects and Rehabilitation means that the following projects in the Six Year Highway Plan are not Major Highway Projects, but fall under the class of Rehabilitation:

- The work on US Highway 14 in Dane County titled "Oregon Bypass" is 4.99 miles long, is estimated to cost between \$5,000,000 and \$5,999,999 and the project description is: "Reconstruct USH 14 on a new alignment from STH 138 to STH 92."
- The work on US Highway 14 in Richland County titled "Richland Center - Gotham/Incl. B-583" is a 7.81 miles long, is estimated to cost between \$10,000,000 and \$10,999,999 and the project description is: "Extend existing 4 lane roadway to STH 58, widen roadbed to provide 12 foot driving lanes, construct passing lanes, and pave 3 feet of shoulders from STH 58 to Gotham."
- The work on STH 33 in Ozaukee County titled "STH 33 I-43 to Tower Dr" is 1.50 miles long, is estimated to cost \$8,000,000 to \$8,999,999 and the project description is "Reconstruct with added capacity."

Each of these three examples is a project that exceeds the \$5,000,000 threshold and either builds on a new highway alignment or adds new capacity, but do not meet the length requirements set forth in the statute. Rehabilitation work is commonly portrayed as the equivalent of repair work but our analysis suggests that increased scrutiny of this program would clearly demonstrate that such a portrayal is misleading the general public. Don't the people of Wisconsin deserve a clear accounting of where their money is being spent? And, does an \$8 or \$10 million Rehabilitation with expansion project not merit increased oversight similar to an \$8 or \$10 million Major Highway Project, regardless of whether the expansion is one, five, or twenty-five miles long?

Put together, the data from these two additional audits, or a similar audit that reviews the whole state highway program, would allow the Wisconsin Department of Transportation, the legislature and members of the general public to step back and look at the big picture, identify key problem areas and move forward towards practical solutions to these problems.

1000 Friends of Wisconsin's other suggestion is that the state move forward immediately to adopt a policy that sets strict state highway program budgeting priorities. Whether it is called Fix it First, Preserve First or something else, this policy needs to set forth that Wisconsin will spend taxpayers' money on meeting the total demand of maintenance and repair work before funding capacity expansion. It's a matter of common sense. Once the maintenance and repair needs have been fully funded, then there can be a debate as to whether the remaining funds will best be used to fund capacity expansion of the state highway system, transportation aids to local governments, or other programs.

Thank you for considering these comments and for the opportunity to speak today.

Remarks of Senator Carol Roessler and
Representative Suzanne Jeskewitz
on Senate Bill 478 and Assembly Bill 893

Speaker one:

Good morning and thank you for being here early on this busy day.

Before you today are companion bills--Senate Bill 478 and Assembly Bill 893--that we have introduced in response to recommendations contained in the Legislative Audit Bureau's recent evaluation of the Major Highway Program and in testimony the committee heard at its January 26th public hearing on the audit report.

Once again, we want to publicly acknowledge the thorough and professional job the Audit Bureau did in preparing this comprehensive report, as well as the cooperation of Secretary Busalacchi and his staff at the Department of Transportation during the audit process and in the development of this legislation.

The Audit report noted significant cost increases in the major highway program over the past ten years and cited several reasons for those increases, including inaccurate initial estimates of project costs, expansion of the scope of projects after initially designed, and high real estate costs.

The Audit Bureau found that because the cost of major highway projects increases after enumeration--sometimes significantly--the funding available to undertake future projects is reduced. In addition, the Bureau reported that DOT does not track the total cost of individual projects, which prevents a complete analysis of the program's finances, and that tracking changes to major highway projects is also difficult.

The Audit Bureau's recommendations regarding the major highway program addressed the need for:

1. Improving financial and project cost reporting.
2. Providing consistent information in project planning documents.
3. Consistently communicating changes in project design and scope so effects on costs can be monitored.

In developing these companion bills, we have been conscious of the need to require DOT to provide more complete information about project costs, while at the same time not overburdening them with reporting requirements that may divert time and attention from the actual management of these very complex projects.

After having the companion bills drafted, we had continuing discussions with the department and other interested parties. Yesterday, we had a companion simple amendment drafted to each bill to further refine our recommendations. A copy of the amendments should be at your places this morning. You also have a Legislative Council memo describing the bills, as amended.

Speaker two:

At this time I would like to describe the provisions of the bills, as amended.

1. **Timing of TPC Project Approval.** The bills, as amended, would prohibit the TPC from recommending approval of any major highway project until the DOT has completed, and the TPC has reviewed, a final environmental impact statement (EIS) or environmental assessment (EA) approved by the Federal Highway Administration.

Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an EIS or EA for a potential major highway project without TPC approval. However, there is currently no requirement that the TPC review the final EIS or EA before giving final approval to a project.

2. **Project Enumeration.** The bills, as amended, would prohibit the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project. Currently, the Legislature sometimes enumerates and approves construction of major highway projects without approval by the TPC.

3. **Creation of a Change Management System.** The bills, as amended, would require DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects and all southeast Wisconsin freeway rehabilitation projects, including the Marquette interchange project. DOT has indicated that they have already established this process for the southeast freeway rehabilitation projects.

4. **Approval of Certain Design Changes.** The bills, as amended, would require that the TPC be given the opportunity to review and approve certain project design changes proposed by DOT after a major highway project has been enumerated or approved, prior to DOT implementing the changes. The following design changes are subject to this requirement:

- a. Upgrading any portion of the project from a highway to a freeway or expressway.
- b. Upgrading any portion of the project to increase the number of traffic lanes.
- c. Upgrading any at-grade intersection to an interchange.
- d. Upgrading an interchange to accommodate higher-speed traffic.

Prior to implementing any of those changes, DOT must report the proposed changes, any reason for the changes, and the estimated project cost attributable to the changes, to the TPC for review. The bills provide for passive review by the TPC, similar to Joint Finance Committee review of certain items. If within 14 days of receiving the report, the TPC does not notify DOT that it has scheduled a public hearing on the proposed design changes, DOT may implement the changes. Any TPC member may request a public hearing. If a public hearing is scheduled, the TPC must conduct the hearing and, within 60 days of the report's submission, notify DOT of its approval of the design changes,

with or without modifications, or its decision not to approve any changes. The DOT may not implement any proposed project design changes required to be submitted to the TPC unless the TPC notifies DOT that the proposed design changes, with or without modifications, are approved.

5. **DOT Reports to TPC.** The bills, as amended, require DOT to submit reports to the TPC twice a year on the activities of the change management system created in the bills. The reports must summarize the current status of each project approved by the TPC and each project enumerated, and must identify all actual and estimated project costs as of the date of the report. 3

The project information included in the reports must be reported both cumulatively from the start of the project and also on an updated basis for the period since the previous report.

6. **Availability of Reports to Public.** The bills, as amended, would require DOT to make certain information available to the public, including making them available at no charge on DOT's Internet site, within specified time periods. The information generally includes reports, materials or other documents prepared by DOT for the TPC, and any other information the TPC asks to be made available. Reports relating to proposed project design changes must be made available on the 15th day after the report is submitted if no public hearing is scheduled and on the day of the hearing, at a time following the hearing, if one is scheduled.

7. **TPC Membership.** The bills, as amended, would increase the membership of the TPC by two members, adding one more senator and one more representative from the majority party, for a total of six senators and six representatives (four of each from the majority party and two of each from the minority party). Currently, there are five senators and five representatives on the TPC (three of each from the majority party and two of each from the minority party).

That concludes our summary of Senate Bill 478 and Assembly Bill 893. We would be happy to answer any questions.



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: MEMBERS OF THE JOINT LEGISLATIVE AUDIT COMMITTEE

FROM: Pam Shannon, Senior Staff Attorney *PS*

RE: Summary of 2003 Senate Bill 478 and 2003 Assembly Bill 893, as Amended

DATE: February 26, 2004

This memorandum, prepared at the request of Co-Chairs Roessler and Jeskewitz, summarizes the provisions of 2003 Senate Bill 478 and 2003 Assembly Bill 893, relating to major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission, as amended by a companion simple amendment.

Senate Bill 478 and Assembly Bill 893 are companion bills, introduced by Co-Chairs Roessler and Jeskewitz, respectively, in response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (Audit Report 03-13) and testimony offered at the Joint Audit Committee's public hearing on January 26, 2004.

Senate Amendment __ [LRBa2409/1] and Assembly Amendment __ [LRBa2408/1] are companion simple amendments to the bills. The amendments were drafted at the request of Co-Chairs Roessler and Jeskewitz.

CURRENT LAW

Under current law, the Department of Transportation (DOT) administers the major highway projects program. A major highway project is defined, with limited exceptions, as a project having a total cost of more than \$5 million and involving either construction of a new highway of at least 2.5 miles, reconstruction or reconditioning of specified existing highways, or improvement of certain existing highways to freeway standards. Unlike other highway construction projects undertaken by DOT, major highway projects must generally receive the approval of the Transportation Projects Commission (TPC) and the Legislature (referred to as "enumeration") before the project may be constructed.

Current law distinguishes and provides separate funding for southeast Wisconsin freeway rehabilitation projects, including reconstruction of the Marquette interchange in Milwaukee County.

Current law specifically exempts any southeast Wisconsin freeway rehabilitation project from the definition of a major highway project, even if the rehabilitation project would meet the criteria for a major highway project. Therefore, southeast Wisconsin freeway rehabilitation projects are not required to be reviewed or approved by the TPC.

Currently, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. The DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without approval of the TPC and the Legislature, the Legislature may enumerate and approve the construction of major highway projects without approval of the TPC. The TPC may not recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years.

Under current law, membership of the TPC includes the Governor (who serves as chairperson), three citizen members appointed by and serving at the pleasure of the Governor, and five Senators (three from the majority party and two from the minority party) and five Representatives (three from the majority party and two from the minority party), appointed as are members of standing committees. The Secretary of Transportation serves as a nonvoting member.

COMPANION BILLS, AS AMENDED

Following is a summary of Senate Bill 478 and Assembly Bill 893, as amended by companion Senate Amendment __ [LRBa2409/1] and Assembly Amendment __ [LRBa2408/1], respectively.

1. Timing of TPC Project Approval

The bills, as amended, prohibit the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA that has been approved by the Federal Highway Administration.

2. Project Enumeration

The bills, as amended, prohibit the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project, with or without modifications.

3. Creation of Change Management System

The bills, as amended, require DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects and all southeast Wisconsin freeway rehabilitation projects.

4. Approval of Certain Design Changes

The bills, as amended, require that the TPR have the opportunity to review and approve certain project design changes proposed by DOT after a major highway project has been enumerated or

approved, prior to implementation of the design changes. The following design changes are subject to this requirement:

- a. Upgrading any portion of the project from a highway to a freeway or expressway.
- b. Upgrading any portion of the project to increase the number of traffic lanes.
- c. Upgrading any at-grade intersection to an interchange.
- d. Upgrading an interchange to accommodate higher-speed traffic.

Prior to implementing any of the above design changes, DOT must report the proposed changes, any reason for the changes, and the estimated project cost attributable to the changes to the TPC. If, within 14 days after the report's submission, the TPC does not notify DOT that it has scheduled a public hearing, DOT may implement the changes. Any member of the TPC may request a public hearing. If, within 14 days, the TPC notifies DOT that a public hearing has been scheduled, the TPC must conduct the public hearing and, within 60 days of DOT's submission of the report, notify DOT of the proposed changes that the TPC approves, or approves with modifications, or notify DOT that it does not approve any of the proposed changes.

If the TPC has notified DOT that a public hearing has been scheduled, DOT may not implement any proposed changes unless the TPC notifies DOT that the changes, with or without modifications, are approved.

5. DOT Reports to TPC

The bills, as amended, require DOT to submit a report every six months to the TPC on the activities of DOT's change management system relating to major highway program projects and southeast Wisconsin freeway rehabilitation projects. The reports must summarize the current status of each project approved by the TPC, each project enumerated or approved, and each southeast Wisconsin freeway rehabilitation project. The report must identify all actual and estimated project costs as of the date of the report. The project information included in the reports must be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since the previous report. In addition to the semi-annual reports, DOT must report to the TPC on certain proposed project design changes, as discussed in item 4., above.

6. Availability of Information to Public

The bills, as amended, require DOT to make certain information available to the public, including making the information available at no charge on DOT's Internet site, within specified time periods. In general, this includes reports, materials, or documents prepared by DOT for the TPC and any other information identified by the TPC to be made available by DOT.

Reports prepared by DOT for the TPC regarding proposed project design changes and materials prepared for a public hearing on such changes must be available on the 15th day after the date the report is submitted to the TPC, if the TPC does not notify DOT within 14 days of receipt of the report that a public hearing has been scheduled. If the TPC notifies DOT that the TPC has scheduled a public hearing, the report must be available on the day of the public hearing, sometime after the hearing.

7. TPC Membership

The bills, as amended, increase the membership of the TPC by adding one additional Senator and one additional Representative, so that the membership would include six Senators (four from the majority party and two from the minority party) and six Representatives (four from the majority party and two from the minority party).

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

PS:ksm:rv;ksm

Vote Record

Joint committee on Audit

Date: Feb. 26, 2004

Moved by: Sen. Roessler

Seconded by: Rep. Adran

Motion to recommend passage of AB893 as amended

Be recommended for:

- ☒ Passage ☐ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeff Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Cullen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	<u>0</u>	<u>1</u>	<u>0</u>

Vote Record

Joint committee on Audit

Date: Feb. 26, 2004

Moved by: Rep. Kerkman

Seconded by: Sen. Plale

Motion to recommend adoption of Assembly Amendment LRBa 2408/1

Be recommended for:

- ☐ Passage ☒ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeff Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Cullen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>1</u>	<u>1</u>	<u>0</u>

Committee Meeting Attendance Record

Joint committee on Audit

Date: Feb. 26, 2004

Meeting Type: Executive Session

Location: 411 South State Capitol

<u>Committee Member</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Representative Suzanne Jeskewitz Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeff Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Cullen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 9 1 0



Pam Matthews
Committee Clerk

Committee Meeting Attendance Record

Joint committee on Audit

Date: Feb 26, 2004

Meeting Type: Public Hearing

Location: 411 South, State Capitol

<u>Committee Member</u>	<u>Present</u>	<u>Absent</u>	<u>Excused</u>
Representative Suzanne Jeskewitz Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler Co-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Robert Cowles	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeff Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative David Cullen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Pocan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 9 1 0



Pam Matthews
Committee Clerk

Asbjornson, Karen

From: Shannon, Pam
Sent: Tuesday, March 02, 2004 2:29 PM
To: Gary, Aaron
Cc: Bezruki, Don; Asbjornson, Karen; Matthews, Pam; Chrisman, James
Subject: RE: latest major highways amendment

Hi Aaron,

Don and I agree that although the specific point was not addressed, for consistency with the spirit of providing advance public access to reports, etc., it should be 24 hours for design change materials and documents, as it is for the others.

Pam S.

-----Original Message-----

From: Gary, Aaron
Sent: Tuesday, March 02, 2004 2:08 PM
To: Matthews, Pam; Shannon, Pam; Bezruki, Don; Asbjornson, Karen
Subject: latest major highways amendment

I am basically finished drafting the amendment, but have one detail of which I am not quite certain where we ended up. Can anybody clarify this: If DOT has to submit a report under the new sub. (2m) re design changes, and the TPC advises it will schedule a public hearing, should the materials and documents that DOT prepares for the public hearing be publicly available 24 hrs. before the hearing (per the revised par. (b) on p. 3 of LRBa2408) or on the day of the public hearing (per par. (d) on p. 3 of LRBa2408)? My understanding was that it would be the day of the hearing (ie that we were leaving the substance of par. (d) alone) but I'm not positive about this. Can anybody help me out? thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR CAROL ROESSLER AND REPRESENTATIVE SUZANNE JESKEWITZ

FROM: Pam Shannon, Senior Staff Attorney

RE: 2003 Senate Bill 478 and 2003 Assembly Bill 893, as Amended

DATE: March 5, 2004

This memorandum, prepared at your request, summarizes: (1) the provisions of companion bills Senate Bill 478 and Assembly Bill 893, relating to major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission; (2) the companion amendments [Senate Amendment 1 and Assembly Amendment 1, respectively] adopted by the Joint Legislative Audit Committee; and (3) the companion amendments to those amendments [Senate Amendment 1 to Senate Amendment 1 to Senate Bill 478 and Assembly Amendment 1 to Assembly Amendment 1 to Assembly Bill 893], which you introduced subsequent to the hearing.

CURRENT LAW

Under current law, the Department of Transportation (DOT) administers the major highway projects program (defined, with limited exceptions, as a project having a total cost of more than \$5 million and involving either construction of a new highway of at least 2.5 miles, reconstruction or reconditioning of specified existing highways, or improvement of certain existing highways to freeway standards). Unlike other DOT highway construction projects, major highway projects must generally receive the approval of the Transportation Projects Commission (TPC) and the Legislature (a process referred to as "enumeration") before the project may be constructed.

Current law distinguishes and provides separate funding for southeast Wisconsin freeway rehabilitation projects, including reconstruction of the Marquette interchange in Milwaukee County. Because these southeast rehabilitation projects are specifically exempt from the definition of a major highway project, they are not required to be reviewed or approved by the TPC.

Currently, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. The DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without approval of the

TPC and the Legislature, the Legislature may enumerate and approve the construction of major highway projects without approval of the TPC.

Under current law, membership of the TPC includes the governor (who serves as chairperson), three citizen members appointed by and serving at the pleasure of the governor, and five Senators (three from the majority party and two from the minority party) and five Representatives (three from the majority party and two from the minority party), appointed as are members of standing committees. The secretary of transportation serves as a nonvoting member.

BILLS AS INTRODUCED AND AMENDED

In the summary below:

- "Bill as introduced" refers collectively to Senate Bill 478 and Assembly Bill 893, as introduced.
- "Amendment" refers collectively to Senate Amendment 1 to Senate Bill 478 and Assembly Amendment 1 to Assembly Bill 893.
- "Amendment to the amendment" refers collectively to Senate Amendment 1 to Senate Amendment 1 to Senate Bill 478 and Assembly Amendment 1 to Assembly Amendment 1 to Assembly Bill 893.

1. Timing of TPC Project Approval

Bill as introduced: Prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT, and review by the TPC, of a final EIS or EA that has been approved by the Federal Highway Administration.

Amendment: No change.

Amendment to the amendment: Eliminates the requirement that the TPC review the final EIS or EA prior to recommending approval of a project.

2. Project Enumeration

Bill as introduced: Prohibits the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project, with or without modification.

Amendment: No change.

Amendment to the amendment: No change.

3. Creation of Change Management System

Bill as introduced: Requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects and all southeast Wisconsin freeway rehabilitation projects.

Amendment: No change.

Amendment to the amendment: Modifies the change management system requirement for the southeast Wisconsin freeway projects to pertain only to southeast Wisconsin freeway *reconstruction* projects with a total cost of more than \$ 5 million, rather than to rehabilitation projects.

4. DOT Reports to TPC

Bill as introduced: Requires DOT to submit a report every three months to the TPC on the activities of DOT's change management system relating to major highway program projects and southeast Wisconsin freeway rehabilitation projects. The report must summarize the current status of each project approved by the TPC and each project enumerated and identify all actual and estimated project costs as of the date of the report. The project information must be reported on both a cumulative basis from the inception of the project and on an updated basis for the period since the previous report.

Amendment: Modifies the reporting interval to require DOT to report every *six* months instead of every three months.

Amendment to the amendment:

- Modifies the reporting requirement with respect to southeast Wisconsin freeway projects so that the requirement pertains only to southeast Wisconsin freeway *reconstruction* projects with a total cost of more than \$ 5 million, rather than to rehabilitation projects.
- Specifies that DOT must provide the TPC with any materials or documents prepared by DOT, except the department's recommendations, for use at a TPC meeting, at least five business days prior to the meeting.

5. TPC Membership

Bill as introduced: Increases the membership of the TPC by adding one additional Senator and one additional Representative, so that the membership would include six Senators and six Representatives (four of each from the majority party and two of each from the minority party).

Amendment: No change.

Amendment to the amendment: In addition to adding one Senator and one Representative, requires that one of the Senators on the TPC must be the chair of the Senate standing committee dealing with transportation matters and one of the Representatives on the TPC must be the chair of the Assembly standing committee dealing with transportation matters.

6. Approval of Certain Design Changes

Bill as introduced: No provision

Amendment: Requires that the TPC have an opportunity to review and approve certain project design changes proposed by DOT after a major highway project has been enumerated or approved, prior

to implementation of the design changes. The design changes subject to this requirement are changes that would upgrade:

- a. Any portion of the project from a highway to a freeway or expressway.
- b. Any portion of the project to increase the number of traffic lanes.
- c. Any at-grade intersection to an interchange.
- d. An interchange to accommodate higher-speed traffic.

Prior to implementing these changes, DOT must report the proposed changes, any reason for the changes, and the estimated project cost attributable to the changes to the TPC. The amendment provides for passive review of these changes by the TPC. If, within 14 days after the report's submission, the TPC does *not* notify DOT that it has scheduled a public hearing, DOT may implement the changes. Any member of the TPC may request a public hearing.

If, within 14 days, the TPC notifies DOT that a public hearing *has* been scheduled, the TPC must conduct the public hearing and, within 60 days of DOT's submission of the report, notify DOT of the proposed changes that the TPC approves, or approves with modifications, or notify DOT that it does not approve any of the proposed changes. If the TPC notifies DOT that a public hearing has been scheduled, DOT may not implement any proposed changes unless the TPC notifies DOT that the changes, with or without modifications, are approved.

Amendment to the amendment: Deletes the phrase "from a highway" in listed item a., above, because any major highway project upgraded to a freeway or expressway would be a highway.

7. Availability of DOT Information to Public

Bill as introduced: No provision.

Amendment: Requires that DOT make certain information available to the public, including making it available at no charge on DOT's Internet site, within specified time periods. The types of information and time periods for making the information available to the public are as follows:

- a. Any reports (such as the semi-annual reports on project status and costs) prepared by DOT for the TPC, within five business days of completion and transmittal to the TPC.
- b. Materials or documents prepared by DOT for a meeting of the TPC, at least five business days prior to the meeting.
- c. Any other information the TPC directs DOT to make available, within the time specified by the TPC.
- d. Any reports prepared by DOT for the TPC regarding proposed project design changes and any materials or documents prepared by DOT for use at a public hearing on design changes, on the 15th day after the report is submitted if no public hearing is scheduled and on the day of the hearing, at a time following the hearing, if one is scheduled.

Amendment to the amendment: Modifies those requirements to provide that, *notwithstanding the Open Records Law*, the following reports and other items prepared by DOT for the TPC must be made available to the public (including at no charge on the DOT Internet site) within the specified time periods:

- a. Any semi-annual report on the status and cost of projects, within five business days after completion and transmittal to the TPC.
- b. Any materials or documents prepared by DOT, *except the department's recommendations*, for use at a TPC meeting, *at least 24 hours prior* to the meeting.
- c. Any other information the TPC directs DOT to make available, within the time specified by the TPC.
- d. Any reports prepared by DOT for the TPC regarding proposed project design changes, on the 15th day after the report is submitted if no public hearing is scheduled and *at least 24 hours* prior to the hearing if one is scheduled.

Please feel free to contact me at the Legislative Council staff offices if you have any questions about this legislation.

PS:wu



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR CAROL ROESSLER

FROM: Pam Shannon, Senior Staff Attorney

RE: Assembly Substitute Amendment 1 to 2003 Assembly Bill 893 (Major Highway Projects and the Transportation Projects Commission)

DATE: March 10, 2004

This memorandum summarizes Assembly Substitute Amendment 1 [hereafter, "the Substitute Amendment"] to 2003 Assembly Bill 893, relating to major highway projects and the transportation projects commission. On March 10, 2004, the Substitute Amendment was introduced by Representative Suzanne Jeskewitz. The Assembly adopted the Substitute Amendment on a voice vote and passed the bill, also on a voice vote. The bill was immediately messaged to the Senate.

The Substitute Amendment contains the following provisions:

1. Timing of Transportation Projects Commission (TPC) Project Approval

The Substitute Amendment prohibits the TPC from recommending approval of any major highway project until the TPC has been notified that a final environmental impact statement or environmental assessment for the project has been approved by the Federal Highway Administration. This requirement first applies to major highway projects being considered by the TPC on the effective date of this provision.

2. Project Enumeration

The Substitute Amendment prohibits the Legislature from enumerating any major highway project unless the TPC has recommended approval of the project, with or without modifications.

3. DOT Reports on Project Status and Costs

The Substitute Amendment requires DOT to submit a report every six months to the TPC that does all of the following:

- a. Summarizes the current status of each project submitted by DOT that is under consideration by the TPC, including any project approved by the TPC, and of each project enumerated.
- b. Identifies all actual and estimated project costs for those projects, itemized by major cost categories, as of the date of preparation of the report. To the extent feasible, DOT must separately track and report the costs of environmental assessments, compliance, and mitigation.
- c. Reports the required information both on a cumulative basis from the inception of the project and on an updated basis for the period since the last report.

The first report must be submitted by February 1, 2005. These reporting requirements first apply to major highway projects enumerated, approved, or being considered by the TPC on the effective date of this provision.

4. Information DOT Required to Make Available

The Substitute Amendment requires that, notwithstanding the Open Records Law, DOT must make the following information available to the public, including available at no charge on DOT's Internet site, within the following time periods:

- a. Any report prepared by DOT for the TPC relating to project status and costs must be available within five business days of the report's completion and transmittal to the TPC.
- b. Any materials or documents prepared by DOT, except the department's recommendations, for use at a TPC meeting must be available at least two business days prior to the meeting.
- c. Any other information that the TPC directs be made available by DOT must be made available within the time specified by the TPC.

These requirements first apply to reports, materials, and documents prepared by DOT on the effective date of this provision.

5. Creation of Change Management System

The Substitute Amendment requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects.

Please feel free to contact me at the Legislative Council staff offices if you have any questions about the Substitute Amendment.

PS:tlu

Asbjornson, Karen

From: Hudzinski, Nicole - Office of Governor Jim Doyle
Sent: Tuesday, April 06, 2004 7:37 AM
To: *Legislative Assembly Democrats; *Legislative Assembly Republicans; *Legislative Senate Democrats; *Legislative Senate Republicans
Cc: Erickson, Jessica - Office of Governor Jim Doyle; Kasper, Amy - Office of Governor Jim Doyle; Henderson, Patrick - Office of Governor Jim Doyle; Pfaff, Shawn - Office of Governor Jim Doyle; Mawdsley, Kate - Office of Governor Jim Doyle; Guarasci, Patrick - Office of Governor Jim Doyle; Moyer, Andrew - Office of Governor Jim Doyle
Subject: Notice of Bill Signing- April 8th- Sheboygan

Governor Jim Doyle will be acting on the following bills on Thursday, April 8th, 2:45 p.m. at the DeLand Community Center, 901 Broughton Drive, Sheboygan. Please let me know by 3:00 p.m. on Wednesday, April 7th, if you plan to attend. Thank you.

AB 15, relating to: vehicle owner liability for violations of certain traffic laws relating to railroad crossings and providing penalties.

AB 274, relating to: golf cart trailers as towed vehicles in 3-vehicle combinations.

AB 436, relating to: the sale or donation of state property by the Department of Transportation.

AB 495, relating to: the sale of surplus county highway land.

AB 501, relating to: the maximum permissible length and width of motor homes and recreational vehicles operated without a permit.

AB 678, relating to: the reorganization, modernization, and modification of chapters 80 and 81.

AB 777, relating to: unlicensed motor vehicle dealers, motor vehicle salespersons, and sales finance companies, and providing a penalty.

AB 791, relating to: eligibility for the Harbor Assistance Program administered by the Department of Transportation.

AB 821, relating to: motor vehicle buyers, granting rule-making authority, and providing a penalty.

AB 893, relating to: major highway projects, southeast Wisconsin freeway rehabilitation projects, and the transportation projects commission.

SB 46, relating to: the designation and marking of certain highways and bridges.

SB 410, relating to: eligibility for a grant under the fire dues program.

SB 436, relating to: motor vehicle emission inspections.

SB 448, relating to: issuance of operators' licenses to persons previously licensed in another state.

Nicole Hudzinski
Assistant to Legislative Director
and Policy Director
Office of Governor Jim Doyle
608-266-7424

Act 217

Proposed Changes:

1. Prohibits TPC from recommending approval of any major highway project until TPC has been notified that a final environmental impact state or assessment has been approved by the Federal Highway Administration.
2. Prohibits the Legislature from enumerating any major highway project unless TPC has recommended approval of the project.
3. Requires DOT to submit a report every six months to TPC:
 - a. Summarize current status of each project submitted by DOT under consideration by TPC
 - b. Identifies all actual and estimated project costs, itemized by major cost categories. To the extent feasible, DOT must separately track and report costs of environmental assessments, compliance and mitigation.
 - c. Reports the required information on cumulative basis on inception of project and on an updated basis for period since last report.
4. DOT must make information available on DOT's website within following time periods:
 - a. Within five business days - any report prepared by DOT for the TPC on project status and costs
 - b. At least two business days – materials and documents for use prior to TPC meeting (not DOT recommendations on projects)
 - c. Time specified by TPC - any other information TPC directs be made available
5. Requires DOT to develop and implement a change management system for providing fiscal and management oversight for all major highway projects.

Background:

The companion bills were introduced by Joint Legislative Audit Committee Co-Chairs Roessler and Jeskewitz, respectively, in response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (Audit Report 03-13) and to testimony offered at the Joint Audit Committee's January 26, 2004 public hearing on the audit report.

Timeline:

January 26, 2004 Public hearing on audit

March 2, 2004 Hearing and exec on SB 478 and AB 893

- Introduction and adoption of amendments to the bills – passed 8-1 (Kaufert no)
- Passage as amended 9-0

You and Sue introduced an amendment to your amendment post hearing

March 11, 2004 Assembly passed substitute amendment to AB 893

Things that changed in the process:

1. increase of 2 members on the TPC is gone
2. all the language on TPC review/approval of design changes is gone
3. TPC just has to be notified that the FEIS has been approved by the feds.
4. also, we're back to reports every 6 months to the TPC
5. include the environmental items that Cowles was interested in.
6. A minor point, instead of 24 hours advance availability of reports prepared for TPC meetings, they have to be available 2 working days in advance.

Recommended Changes to AB – 893

WTBA is very appreciative of the excellent work done by the Joint Audit Committee on TPC reform. The bill provides real solutions to the key issues raised by Audit Bureau. However, a number of changes outlined below would further improve the bill, avoid pitfalls, and address problem issues remaining.

Original Draft:

The original draft was introduced on Feb. 23. The following changes to the original draft would be helpful:

- Section 1: This section increases TPC membership from 3 to 4 for the majority party in each house, creating a balance with a Governor of the opposite party.

This section should be removed to avoid a likely veto of the whole bill. In addition, such a change could be negative, as party control of the Legislature and the Governor's chair evolves.

- Section 3: The added language in 13.489 (4) (a) 1. a. and b. should be modified as follows:

"and the commission has ~~received and reviewed~~ been notified that a final environmental or environmental assessment for the project has been approved by the federal highway administration."

This change is critical to ensuring that the TPC does not add independent oversight of environmental documents to its authority. This would potentially set up the TPC as a "last stand" place for highway opponents to appeal EIS details, which is not appropriate under the federal process. Environmental documents are huge. Requiring the TPC to review them is not realistic.

This change will bring this provision back to the original intent: shift the point of enumeration from after the DRAFT EIS to after the FINAL EIS and approval of the Federal Highway Administration.

The change in Assembly Amendment 1, deleting "and reviewed" is quite helpful, but as we discussed yesterday, sending voluminous documents filled with highly technical analysis to TPC members will serve no useful purpose. I would suggest the language noted above, with another sentence: "TPC members may request a copy of the final environmental document from the Department."

- Section 5: The original draft requires cost reports every 3 months. Assembly amendment 1 changes that to 6 months. The requirement should be annual, for two reasons. A longer time frame will focus on substantive change that is visible over time, rather on the minutia of many interim decisions. Done well, this report will require a lot of DOT staff time. DOT staffing has been cut significantly. Staff will need to be relocated from program delivery.

We suggest a change in the language as follows: "By February 1, 2005 and ~~every 3 months~~ annually thereafter, the department of transportation shall submit a report to the commission that does all of the following:"

- Section 5 also expands the scope of these reports to include each SE WI freeway rehabilitation project in 13.489 (5) 1. This language should be deleted.

The idea driving this provision is that certain large projects need the same kind of reporting. The provision fails to recognize that SE WI freeways include many small, relatively routine projects, and even some very large projects like the Marquette do not add capacity in a way that meets the definition of a major project. Ironically, some very large outstate Rehab projects would not be included. For example, a new Verona Road Interchange in Madison would cost well over \$100 million.

The TPC's role is and should be strictly limited to projects meeting the statutory definition of major projects. Note: statutes exempt from the definition and from TPC oversight SE WI projects that add 5 miles of new capacity. This is logical, since 80% of the costs of those segments will be for reconstruction, not new capacity.

This provision would re-open the door to including large SE WI projects as majors under TPC review, which would threaten funding for outstate majors and complicate building a separate appropriation base for SE Wisconsin Freeway reconstruction.

It is illogical to extend the TPC's role to anything beyond projects that meet the statutory role of a major project.

It may be the case that reports on certain large reconstruction projects would be helpful, although it is not all clear to whom those reports would be sent.

We suggest giving the new law a few years to work, to see if it is effective. At that point, the Legislature could thoughtfully think through what subset of projects this should apply to, and write separate legislation that has no reference to Major Projects or the TPC. The \$5 million threshold for SE WI reconstruction projects is way too low.

- Section 5 also creates 13.489 (5) 2., which defines what the reports shall include. The language is inconsistent with the summary and misses a key recommendation of the audit.

These changes are recommended:

“2. For each project specified under subd.1., identifies all actual and estimated project costs, itemized by major cost categories, as of the date of preparation of the report. To the extent feasible, the department will separately track and report the costs of environmental assessments, compliance, and mitigation.”

The first change, “itemized by major cost categories” is included in the summary but not in the text. I believe that the authors wanted to include it. This provision is important because it will provide valuable information on the growth trend of various project development costs, vs. contracted construction costs. This will enable to legislature to better manage future cost drivers.

The second change was a core recommendation of the TPC audit. There seemed to be agreement by all parties that this information should be compiled and provided.

We do not believe this is overly intrusive, since it provides DOT the flexibility to choose the subcategories and structure the report as it sees fit. This is 100% better than the highly prescriptive language in Senator Cowles’ bill.

This section is one of the key elements of the bill. It will ensure that the Department accounts for all costs in a way that can be compared across projects, across the entire program, and over time.

In itself, this provision will assure that the Department has fully evaluated and can justify any cost changes in these reports.

- Section 6 creates 85.052, mandating the Department to develop and implement a change management system to provide fiscal oversight to major projects and SE WI projects.

At a minimum, the requirement for SE WI projects should be eliminated.

Conceptually, DOT should be doing this. I don’t understand the need for a statutory requirement, given that different levels of oversight are needed for projects of varying scope. I would tend to prefer that the entire section be struck.

Internal management processes should not be mandated in statutes, since they evolve.

The language noted in Section 5 above will resolve the problem highlighted by the Audit.

- Section 7 deals with applicability. A modification may be needed:

“13.489 (5) (a) 1. and 2. of the statutes first applies to major highway projects under consideration by the Commission or enumerated under 84.013 (3) of the statutes or approved under section 84.013 (6) of the statutes on the effective date of this subsection.”

This is the section requiring cost reports. As intended, it should apply to all projects under consideration, not just those enumerated. Without this change, the entire intent could be undermined.

Assembly Amendment #1 and Assembly Amendment to it:

- This creates 13.489 (2m), which requires passive review and if desired, active oversight and a public hearing on any change to a project after enumeration, that involves upgrading a portion of the project from a highway to a freeway or expressway, adding one or more traffic lanes in either direction, upgrading any intersection at grade to an interchange to accommodate higher speed traffic. The Commission may ask the department to schedule a public hearing on any of these changes. The Commission is explicitly allowed to approve, modify or reject the Department's recommendation.

This is very dangerous language. It will literally freeze DOT's flexibility after enumeration to make appropriate changes, thereby delaying projects, and will provide a new public forum to appeal decisions they disagree with, even after legal remedies are exhausted. The TPC members would have to rule on design changes. Legislators have policy expertise, but do not have the technical expertise to sort out such recommendations or resolve potential controversy. TPC members will be vigorously lobbied by advocates and opponent, and be put in a position to possibly reject project elements sought by their colleagues.

This is the first step on a very slippery slope toward TPC management oversight over major project design details.

This outcome should be rigorously avoided. We suggest the deletion of #1: Lines 2-13 on pg.1 and lines 1-18 on pg. 2, the entire section.

To the best of my knowledge, no other state has created a legislative forum to review and approve project design changes.

It has been my experience that DOT will generally oppose unjustified changes to control costs. However, there must be enough flexibility in the system to adjust project details in final design, to advance the project with the support of those being impacted.

- The new provision requiring DOT to create a web site for materials sent to the TPC is a very positive change.

However, the change from 5 working days to 24 hours undermines the intent of the provision. First, a working day provision rather than using hours ensures that the requirement can be avoided by scheduling a meeting on a Monday. Second, meetings called to recommend enumeration are highly political events and always have been. What has been missing is active discussion among options prior to the meeting. A minimum of 2 working days notice is essential to create that window. Without it, the outcome is likely to be nearly automatic TPC approval of Department recommendations. This has led to accusations that the TPC is a rubber-stamp, and to legislative efforts to find a safety valve though legislative enumeration.

We strongly agree that the TPC's decisions should not be second-guessed. Both Governor Earl and Governor Thompson vetoed budget enumerations without TPC approval, to maintain the integrity of that process. During the 1980's, there was more information available prior to the meeting and vigorous TPC debate, with alternatives offered by members. That model worked well. Cutting off legislative enumeration without ensuring TPC member discussion will probably lead to the failure of this important provision.

(d) provides posting for design changes after enumeration for approval by the TPC and the scheduling of a public hearing. For the reasons noted above, (2m) should be deleted as well as (d) in this amendment.

DOT Legislation

Originally stated goals (from 1-27-04 meeting notes):

- 1) Enumeration after FEIS and federal highway approval (some public input has already occurred)
- 2) Prohibit Legislature from enumerating a project that has not been approved by the TPC
- 3) Report to TPC Semi-Annually on update of projects by major cost category
- 4) Any cost increases over 10% must be approved by the TPC

4145/1 draft was result of this meeting

Changes discussed at ?? meeting:

- add two more members of the legislature to the TPC, for a total of six in each house – 4 majority and 2 minority members

4145/2 draft was the result of this meeting

Shared copy of the 4145/2 draft with DOT – they expressed concerns

Sue spoke with Randy Romanski by phone on 2/16/04:

DOT's comments on /2 draft –

- Fine with points one and two (final EIS and remove legis from process)
- Fine with semi-annual reporting, but mixed on what is to be reported -
 - **all actual and estimated costs by cost category is too burdensome
 - **thinks this gives TPC too much info
- Against prior approval of TPC for design changes
 - **changes can be simple – such as moving a road over by 5 miles due to environmental concerns, etc.
 - **need to define design changes
 - **does TPC need to make these decisions
 - **changes often made to accommodate local officials
 - **puts political pressure on the Legislative members of TPC
 - **change from 2 lanes to 4 – often a safety issue
 - **at grade vs interchange – work thru with local officials
- Not happy with Increases over 10% must be approved by TPC
 - **10% not very much

Sue stressed that her and Carol did not want to micro-manage the DOT. Sue asked Randy how we could compromise on the design change portion – could we enumerate only the types of changes that would need TPC approval? Asked Randy to bring a proposed list to Wednesday's meeting.

Randy mentioned the oversight committee for the Marquette Interchange project and how they met regularly to discuss all aspects of how the project was going – including to discuss design changes. Randy also mentioned that the TPC meets infrequently and thought that getting their approval would slow down projects.

Sue said that maybe they need to meet more often.

Sue also said that the 10% figure was negotiable. That it was picked out of the air because they needed some place to start the discussion. Also, if we modified how and what the TPC would need to approve, we might be able to take out altogether.

Meeting with Sec. Busalacchi, Randy Romanski,??, Carol, Sue, Karen, Jan, Joe, Bon B., Pam S. and Pam M. on 2/17/04 to discuss /2 draft:

- Randy discussed how the Marquette oversight committee worked and its membership (Randy, Deputy Rubin, all administrators, DOT budget director, Federal rep.)
- Reviewed conversation Randy had with Sue the day before
- Said that cost changes are always a trade off on up front engineering costs – may be cheaper to less up front, but will have to do later anyway?
- Decided to change draft to add the Change management system and take out TPC approval of design changes – including over-runs

4145/4 result of this meeting (/3 drafted incorrectly)

Major policy retained/changed from 4145/1 draft to 4145/4 draft based on originally stated goals:

- 1) Enumeration after FEIS and federal highway approval (some public input has already occurred)
Retained original goal
- 2) Prohibit Legislature from enumerating a project that has not been approved by the TPC
Retained original goal
- 3) Report to TPC Semi-Annually on update of projects by major cost category
Changed reporting frequency from semi-annually to quarterly and no longer requires reporting by major cost categories*
- 4) Any cost increases over 10% must be approved by the TPC
Changed – no longer in draft
- 5) Add two more members of the legislature to the TPC, for a total of six in each house – 4 majority and 2 minority members
New – not one of original goals
- 6) Add a change management system for major highway projects and southeast WI freeway re-habilitation projects
Modified goal - no longer requires TPC approval of design changes (after enumeration or approval)

Major cost overruns identified in audit:

- Real Estate
- Upgrade from highway to expressway to freeway
- At-grade intersections to interchanges
- Changes requested by state and local officials, advocacy groups, and concerned citizens
- Changing from 2-lanes to 4-lanes
- Higher-speed interchanges than originally planned

1/27/04

Key Elements for Bill Draft on Transportation Projects Commission

Procedural:

- Introduced by Senator Carol A. Roessler (Senate Bill)
- Introduced by Representative Suzanne Jeskewitz (Assembly Companion Bill)

Background:

In response to the findings and recommendations presented in the Legislative Audit Bureau's evaluation of the *Major Highway Program* (report 03-13), and reflective of testimony offered before the Joint Legislative Audit Committee in a public hearing on January 26, 2004, the co-chairpersons of the Joint Legislative Audit Committee wish to draft legislation that would increase Legislative involvement and oversight in managing major highway program expenditures by making procedural and process changes to the operations of the Transportation Projects Commission.

Key Elements for Proposed Legislation:

The composition, duties, and responsibilities of the Transportation Projects Commission are identified in s. 13.489 Wis. Stats. The proposed legislation would modify these responsibilities as follows:

1. Semi-annual reporting to the Transportation Projects Commission. On February 1 and August 1 of each year, the Department of Transportation will prepare and submit to the Transportation Projects Commission a formal report summarizing the current status of each major highway project enumerated and the current status of each potential major highway project approved by the Commission for preparation of an environmental impact statement or an environmental assessment. The report will identify project costs as of the reporting date by major cost categories, include specific detail to describe the most current design of the project, and explain any project design modifications made since the Department's last report to the Commission.
2. A major highway project may not be enumerated by the Transportation Projects Commission until it has received and reviewed the final environmental impact statement or environmental assessment. Section 13.489 (4)(d), Wis. Stats., requires the Commission to notify the Department of those potential major highway projects that the Commission has approved for preparation of an environmental impact statement or an environmental assessment. The Commission must have received and reviewed the final environmental impact statement or environmental assessment before the Commission may enumerate the project.
3. Post-enumeration review of project costs by the Transportation Projects Commission. If, at any time after the Transportation Projects Commission has enumerated a major highway project, total project costs increase by more than ten percent (10%) of the total project costs approved by the Commission when the project was enumerated, the Department of Transportation must report and justify the cost increases to the Transportation Projects Commission within 60 days.
4. Only the Transportation Projects Commission shall have statutory authority to enumerate a major highway project. The Legislature may not independently enumerate a major highway project. No major highway project shall be enumerated without the approval of the Transportation Projects Commission.

5. add 2 more legislative members to TPC
1 Senate 1 Assembly
→ this will be reflected in 12
available end of day 2-11

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(4) All laws, conflicting with this section are, insofar as they conflict with this section and no further, superseded by this section.

(5) Unless the context requires otherwise, the terms "building", "new buildings" and "existing buildings", as used in this section, include all buildings, structures, improvements, facilities, equipment or other capital items as the building commission determines to be necessary or desirable for the purpose of providing housing for state departments and agencies.

(6) If the building commission finds and declares that the housing available in any building leased or subleased from a nonprofit-sharing corporation under sub. (1) (c) is in excess of the current housing needs or requirements of the state departments and agencies occupying or availing themselves of the space in or capacity of such building, the building commission need not operate such building in a manner to provide revenue therefrom sufficient to pay the costs of operation and maintenance of such building and to provide for the rental payments due a nonprofit-sharing corporation.

(7) In proceeding with development of new facilities at state fair park in West Allis, the building commission shall employ the following procedures:

(a) The building commission, with advice from the state fair park board, shall examine and review detailed design requirements for all state-owned facilities involving a cost of more than \$250,000 to be included in the development of state fair park.

(b) Final approval by the building commission for the construction of any facility specified in par. (a) at state fair park shall be contingent upon a finding by the building commission that the proposed project is consistent with the overall objectives of the state fair park and that actual lease commitments and the probability of future lease commitments are such that the building commission may reasonably determine that the facility will be completely self-amortizing, including principal and interest payments covering the life of any bond issue.

History: 1971 c. 125; 1977 c. 29 s. 1650m (4); 1979 c. 32 s. 92 (5); 1979 c. 221; 1981 c. 20; 1983 a. 36 s. 96 (3), (4); 1987 a. 399; 1989 a. 219; 1999 a. 197.

13.489 Transportation projects commission. (1) **CREATION.** There is created a transportation projects commission consisting of the governor, 3 citizen members appointed by the governor to serve at his or her pleasure, and 5 senators and 5 representatives to the assembly appointed as are the members of standing committees in their respective houses. Of the members from each house, 3 shall be chosen from the majority party and 2 shall be chosen from the minority party. The secretary of transportation shall serve as a nonvoting member. The governor shall serve as chairperson. Citizen members of the commission shall be reimbursed for their actual and necessary expenses incurred as members of the commission from the appropriation under s. 20.395 (4) (aq).

(1m) **APPROVAL OF COMMISSION REQUIRED FOR STUDY OF POTENTIAL MAJOR HIGHWAY PROJECTS.** (a) In this subsection:

1. "Environmental assessment" means an analysis of a proposed action to determine whether the proposed action constitutes a major action significantly affecting the human environment under s. 1.11 (2) (c).

2. "Environmental impact statement" means a detailed statement required under s. 1.11 (2) (c).

3. "Major highway project" has the meaning given in s. 84.013 (1) (a).

(b) Not later than October 15 of each odd-numbered year, the department of transportation shall provide to the commission a list of potential major highway projects that the department has initially determined may be recommended under par. (c) for approval to prepare an environmental impact statement or an environmental assessment and a list of potential major highway projects that could be studied for possible recommendation under sub. (4). The commission may conduct public hearings on poten-

tial major highway projects identified by the department of transportation or by the commission.

(c) Not later than March 15 of each even-numbered year, the department of transportation shall report to the commission those potential major highway projects that the department recommends be approved by the commission for preparation of an environmental impact statement or an environmental assessment.

(d) Not later than April 15 of each even-numbered year, the commission shall notify the department of those potential major highway projects that the commission approves for preparation of an environmental impact statement or an environmental assessment or shall notify the department that it does not approve any potential major highway projects for preparation of an environmental impact statement or environmental assessment.

(e) The department of transportation may not prepare an environmental impact statement or an environmental assessment for a potential major highway project unless the commission notifies the department under par. (d) that the project is approved.

(2) **DEPARTMENT TO REPORT PROPOSED PROJECTS.** Subject to s. 85.05, the department of transportation shall report to the commission not later than September 15 of each even-numbered year and at such other times as required under s. 84.013 (6) concerning its recommendations for adjustments in the major highway projects program under s. 84.013.

(3) **ASSISTANCE TO COMMISSION.** The department of transportation shall assist the commission in the performance of its duties. The department of transportation shall, when requested by the commission, make or cause to be made such studies and cost estimates with respect to any proposed project as are necessary to permit the commission to consider the project. The costs of such studies shall be charged to the appropriate program appropriation under s. 20.395.

(4) **REVIEW OF PROJECTS.** (a) 1. All reports submitted as provided by sub. (2) shall be reviewed by the commission. The commission shall report its recommendations concerning major highway projects to the governor or governor-elect, the legislature and the joint committee on finance no later than December 15 of each even-numbered year or within 30 days following submission of a report under s. 84.013 (6). The commission may recommend approval, approval with modifications, or disapproval of any project, except that the commission may not recommend the approval, with or without modifications, of any project unless any of the following applies:

a. The commission determines that, within 6 years after the first July 1 after the date on which the commission recommends approval of the project, construction will be commenced on all projects enumerated under s. 84.013 (3) and on the project recommended for approval.

b. The report recommending approval of the project is accompanied by a financing proposal that, if implemented, would provide funding in an amount sufficient to ensure that construction will commence on all projects enumerated under s. 84.013 (3) and on the project within 6 years after the first July 1 after the date on which the commission recommends approval of the project.

2. In determining the commencement date for projects under subd. 1. a. and b., the commission shall assume that the appropriation amounts under s. 20.395 (3) (bq) to (bx) for the current fiscal year will be adjusted annually to reflect adjustments to the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor.

(b) The commission may include in the report in par. (a) its designation of highway improvement projects under s. 84.013 (6m) as major highway projects.

History: 1983 a. 27; 1985 a. 2; 1985 a. 29 ss. 27 to 29, 3202 (51); 1987 a. 27; 1993 a. 16; 1997 a. 27, 86; 1999 a. 9.

13.50 Joint survey committee on retirement systems.

(1) **CREATION.** There is created a joint survey committee on retirement systems composed of 10 members, as follows:



TELEPHONE DIRECTORY

November 2003

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Vacant

Nov 2003 *Transportation Projects Commission Information - (608) 266-5408* (TPC03dimov)

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November 2003

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(TPC03dirnov)

(4) All laws, conflicting with this section are, insofar as they conflict with this section and no further, superseded by this section.

(5) Unless the context requires otherwise, the terms "building", "new buildings" and "existing buildings", as used in this section, include all buildings, structures, improvements, facilities, equipment or other capital items as the building commission determines to be necessary or desirable for the purpose of providing housing for state departments and agencies.

(6) If the building commission finds and declares that the housing available in any building leased or subleased from a nonprofit-sharing corporation under sub. (1) (c) is in excess of the current housing needs or requirements of the state departments and agencies occupying or availing themselves of the space in or capacity of such building, the building commission need not operate such building in a manner to provide revenue therefrom sufficient to pay the costs of operation and maintenance of such building and to provide for the rental payments due a nonprofit-sharing corporation.

(7) In proceeding with development of new facilities at state fair park in West Allis, the building commission shall employ the following procedures:

(a) The building commission, with advice from the state fair park board, shall examine and review detailed design requirements for all state-owned facilities involving a cost of more than \$250,000 to be included in the development of state fair park.

(b) Final approval by the building commission for the construction of any facility specified in par. (a) at state fair park shall be contingent upon a finding by the building commission that the proposed project is consistent with the overall objectives of the state fair park and that actual lease commitments and the probability of future lease commitments are such that the building commission may reasonably determine that the facility will be completely self-amortizing, including principal and interest payments covering the life of any bond issue.

History: 1971 c. 125; 1977 c. 29 s. 1650m (4); 1979 c. 32 s. 92 (5); 1979 c. 221; 1981 c. 20; 1983 a. 36 s. 96 (3), (4); 1987 a. 399; 1989 a. 219; 1999 a. 197.

13.489 Transportation projects commission. (1) CREATION. There is created a transportation projects commission consisting of the governor, 3 citizen members appointed by the governor to serve at his or her pleasure, and 5 senators and 5 representatives to the assembly appointed as are the members of standing committees in their respective houses. Of the members from each house, 3 shall be chosen from the majority party and 2 shall be chosen from the minority party. The secretary of transportation shall serve as a nonvoting member. The governor shall serve as chairperson. Citizen members of the commission shall be reimbursed for their actual and necessary expenses incurred as members of the commission from the appropriation under s. 20.395 (4) (aq).

(1m) APPROVAL OF COMMISSION REQUIRED FOR STUDY OF POTENTIAL MAJOR HIGHWAY PROJECTS. (a) In this subsection:

1. "Environmental assessment" means an analysis of a proposed action to determine whether the proposed action constitutes a major action significantly affecting the human environment under s. 1.11 (2) (c).

2. "Environmental impact statement" means a detailed statement required under s. 1.11 (2) (c).

3. "Major highway project" has the meaning given in s. 84.013 (1) (a).

(b) Not later than October 15 of each odd-numbered year, the department of transportation shall provide to the commission a list of potential major highway projects that the department has initially determined may be recommended under par. (c) for approval to prepare an environmental impact statement or an environmental assessment and a list of potential major highway projects that could be studied for possible recommendation under sub. (4). The commission may conduct public hearings on poten-

tial major highway projects identified by the department of transportation or by the commission.

(c) Not later than March 15 of each even-numbered year, the department of transportation shall report to the commission those potential major highway projects that the department recommends be approved by the commission for preparation of an environmental impact statement or an environmental assessment.

(d) Not later than April 15 of each even-numbered year, the commission shall notify the department of those potential major highway projects that the commission approves for preparation of an environmental impact statement or an environmental assessment or shall notify the department that it does not approve any potential major highway projects for preparation of an environmental impact statement or environmental assessment.

(e) The department of transportation may not prepare an environmental impact statement or an environmental assessment for a potential major highway project unless the commission notifies the department under par. (d) that the project is approved.

(2) DEPARTMENT TO REPORT PROPOSED PROJECTS. Subject to s. 85.05, the department of transportation shall report to the commission not later than September 15 of each even-numbered year and at such other times as required under s. 84.013 (6) concerning its recommendations for adjustments in the major highway projects program under s. 84.013.

(3) ASSISTANCE TO COMMISSION. The department of transportation shall assist the commission in the performance of its duties. The department of transportation shall, when requested by the commission, make or cause to be made such studies and cost estimates with respect to any proposed project as are necessary to permit the commission to consider the project. The costs of such studies shall be charged to the appropriate program appropriation under s. 20.395.

(4) REVIEW OF PROJECTS. (a) 1. All reports submitted as provided by sub. (2) shall be reviewed by the commission. The commission shall report its recommendations concerning major highway projects to the governor or governor-elect, the legislature and the joint committee on finance no later than December 15 of each even-numbered year or within 30 days following submission of a report under s. 84.013 (6). The commission may recommend approval, approval with modifications, or disapproval of any project, except that the commission may not recommend the approval, with or without modifications, of any project unless any of the following applies:

a. The commission determines that, within 6 years after the first July 1 after the date on which the commission recommends approval of the project, construction will be commenced on all projects enumerated under s. 84.013 (3) and on the project recommended for approval.

b. The report recommending approval of the project is accompanied by a financing proposal that, if implemented, would provide funding in an amount sufficient to ensure that construction will commence on all projects enumerated under s. 84.013 (3) and on the project within 6 years after the first July 1 after the date on which the commission recommends approval of the project.

2. In determining the commencement date for projects under subd. 1. a. and b., the commission shall assume that the appropriation amounts under s. 20.395 (3) (bq) to (bx) for the current fiscal year will be adjusted annually to reflect adjustments to the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor.

(b) The commission may include in the report in par. (a) its designation of highway improvement projects under s. 84.013 (6m) as major highway projects.

History: 1983 a. 27; 1985 a. 2; 1985 a. 29 ss. 27 to 29, 3202 (51); 1987 a. 27; 1993 a. 16; 1997 a. 27, 86; 1999 a. 9.

13.50 Joint survey committee on retirement systems.

(1) CREATION. There is created a joint survey committee on retirement systems composed of 10 members, as follows:



TELEPHONE DIRECTORY

November 2003

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Vacant

Nov 2003 *Transportation Projects Commission Information - (608) 266-5408* (TPC03dirnov)

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(TPC03dimov)

Questions Concerning Fiscal Note

1. Fiscal note prepared assuming 4 reports per year; amendment changes that to 2 per year
2. Fiscal note makes it appear this would be a new record keeping requirement, but doesn't the Department currently keep track of its expenditures in its accounting system?
3. Currently, a status report for all the majors is prepared monthly for department use, why can't this report simply be modified to capture baseline data, engineering and real estate costs?

not starting
from
ground
up

(1000's of 2004 PROGRAM DOLLARS w/o DELIVERY)

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DTIM/BSHP/REX/MAJ12YR070103

3 simple amendments:

- SE hwy issue ✓
- hwy / freeway ✓
- 2 Transp chrs are ^{the new} members of TR
- posting after mtg not when members get on it

DOT

- TPC on EIS - well taken
- change mgt - better way to manage process
every 1 comes in impacts somewhere else
- careful that it be major design Δ's
 - don't want extra steps in the process
 - don't feel need add TPC w/ rep
decision left up to the dept.
- if stuck in
A. Upgrade project to a freeway
rather than freeway + express
local pressure

Pat Riley

Word Lyes - 1000 Supports
commend quick response

- ~~not~~ Sunset

consensus

- Clean overturn

- prepared to veto a sunset

vehicle -

Clean roll back

no sunset

no clawback

WHEDA

Helpful w/adm.

- biting off more problems

Randy –

Sue:

Talked about design changes – don't want to do 5 feet (micromanaging). Maybe if some bigger things that would be a possible thing. Why not you go back and

After group – TPC 4 times a year – but didn't talk about approving or disproving – care management. Concern that not giving authority to the TPC. Because management team made up of all DOT people – not giving oversight to an outside group.

DOT: That is going to get into a situation – a very politicized TPC – people will lobby TPC – my community wants an interchange vs. an overpass. Biggest concern overpoliticized. Legislator against legislator why didn't you vote for my 4 lanes to 2 lanes – important economic development. Really politicize that process is the way DOT is looking at the issue. A burdensome process. Huge documents in front of TPC. Sue says she can see what your saying.

All in the report to the TPC - Having done financial, engineering and

Difference between BC and TPC –

TPC – run it like JFC where if don't object within a certain period of time it will go

Will be in reports to TPC there will be cost controls, the process that takes place all ready.

I41 4 lanes or 2 lanes based on value engineering. Traffic now doesn't warrant 4 lanes. Do you make the investment now or not? We think makes sense to do 4 lanes now. Economic development

Right now – most of the time information isn't available till right before. Provide briefings to TPC member if they ask. Formalize all TPC members are briefed in advance or get electronic documents and do followup briefing once

Problem with posting 5 days in advance conceivably – TPC get the document an individual, community could then have the same documents and start lobby the TPC in advance and who get to whom first. Rather than here is all the information the TPC has in their neutral decision making. After meeting done. Troublesome perhaps for other

TPC members get this document prior to meeting but not publish till after meeting.

All Se projects fall into this version include even resurfacing – projects are major like – there is an appropriation that could be identified.

Quarterly takes time and staff time and will take money. Fine with quarterly and it will cost

287,000 to do it four times

Mark
Wolfgang
Notes

Change Management

Committee of design and planning engineers, federal highways, along with people from financial end. This group doing four things:

1. Working with districts at environmental study stage to make sure that the study alternatives that are put on the table for consideration are within reason.
 2. After enumeration goes through – how much of engineering complete – district brings design bring in plans and review them in detail with committee and see that no change in scope. If change in scope this committee must approve it. Checkpoint no one did a fast one. So no one builds in a design change without review.
 3. Any time cost change that adds up to \$500,000 (small changes) or a single one over \$500,000 this committee gives their consent
 4. Do a post mortum after the project has been built. As built plans are consistent with design concept as anticipated. While under construction in field hasn't been decisions made out there that design changes would change the scope.
-

District projects:

1. Hwy 110? – done – it was double
Original \$15.7 million estimated cost last June \$41.9 million increase 166.9% if take general price inflation – change in nature of project 97.6%
 $15.7 \times 97.6\% = \$10$ million of inflation in real dollars 15.7 to 30 – new interchange
2. FDL bypass –
\$9 million this year
\$6 million let next year
Coming it at about what expected it to be. Looking at and not including engineering costs \$31.5 million – 1992 listed as \$37. Pretty much on the money
3. Hwy 41 OSH to Neenah - not detailed design engineering on that
\$225 million – stands at \$230 an adjustment for a couple of years
4. WPN – FDL work scheduled through 2007 about \$50 million behind us and \$45 ahead of us. – \$95.7 million

Saved money on first let for Marquette interchange. Small contract on Klaiburn Street \$11 million contract - let to bid - \$1 million below the estimate and a very significant disadvantaged business enterprise (DBE) component.

#6715

Carol + Sue + Joe / Jan

DOT has concerns w/

1. 10⁵70 oper run issue - ✓
the mate's + info DOT staff
would need to prepare for
TPC would be cumbersome +
could add to cost + take staff
away from doing projects
2. Require TPC approval of project
design ^{change} is also cumbersome
b/c if move a road over a
couple of feet b/c of soil
create delay, cost, etc.
3. Red flag on adding ^{members} ~~staff~~
more people not optimal
b/c more people in
process not always better

OK
we can
"do it"

good or no comment

1. Prohibit TPC acting ^{from} priority
2. TPC - legis. out
3. Semi annual progress report of

I checked Randip (DOT) schedule ~~and~~
~~was 12-1:30 open~~ the time
that works for Carol + DOT is
12-1:30 but doesn't work for Sue.
Dann Shannon recommended Dr

see if she can ^{discuss} ~~talk~~ w/ DOT their concerns.

Next step... ?

Maybe Tues,

Tues good
morning

Son